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ABSTRACT

The report examines New York State's delay in meeting the least restrictive environment (LRE) mandates of P.L. 94-142, the Education For All Handicapped Children Act. The authors suggest a reluctance on the part of New York's education officials to comply with this doctrine and subsequent misinterpretation of the law and efforts to maintain special and regular education as separate entities. The study analyzes the legislative history of the mainstreaming concept and the LRE provisons in the federal law and regulations, reviews the writings of distinguished educators, and the research on mainstreaming, cites the views of education officials in other states with mainstreaming, and traces the history of New York's special education and finance laws. The authors conclude that it is unconscionable for New York's educators not to move forward with a full range of mainstreaming options. Recommendations are offered which contain specific proposals for immediate policy changes that will encourage experimentation with a broad range of programs consistent with LRE. Long term proposals are also cited for revising state education and finance laws over the long term to permanently authorize and fund programs for educating handicapped children in the regular school environment. (CL)

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MAINSTREAMING IN NEW YORK
Children Caught in the Currents

Paula J. Hepner, ESQ., *Project Director*

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A REPORT OF THE
PUBLIC EDUCATION ASSOCIATION

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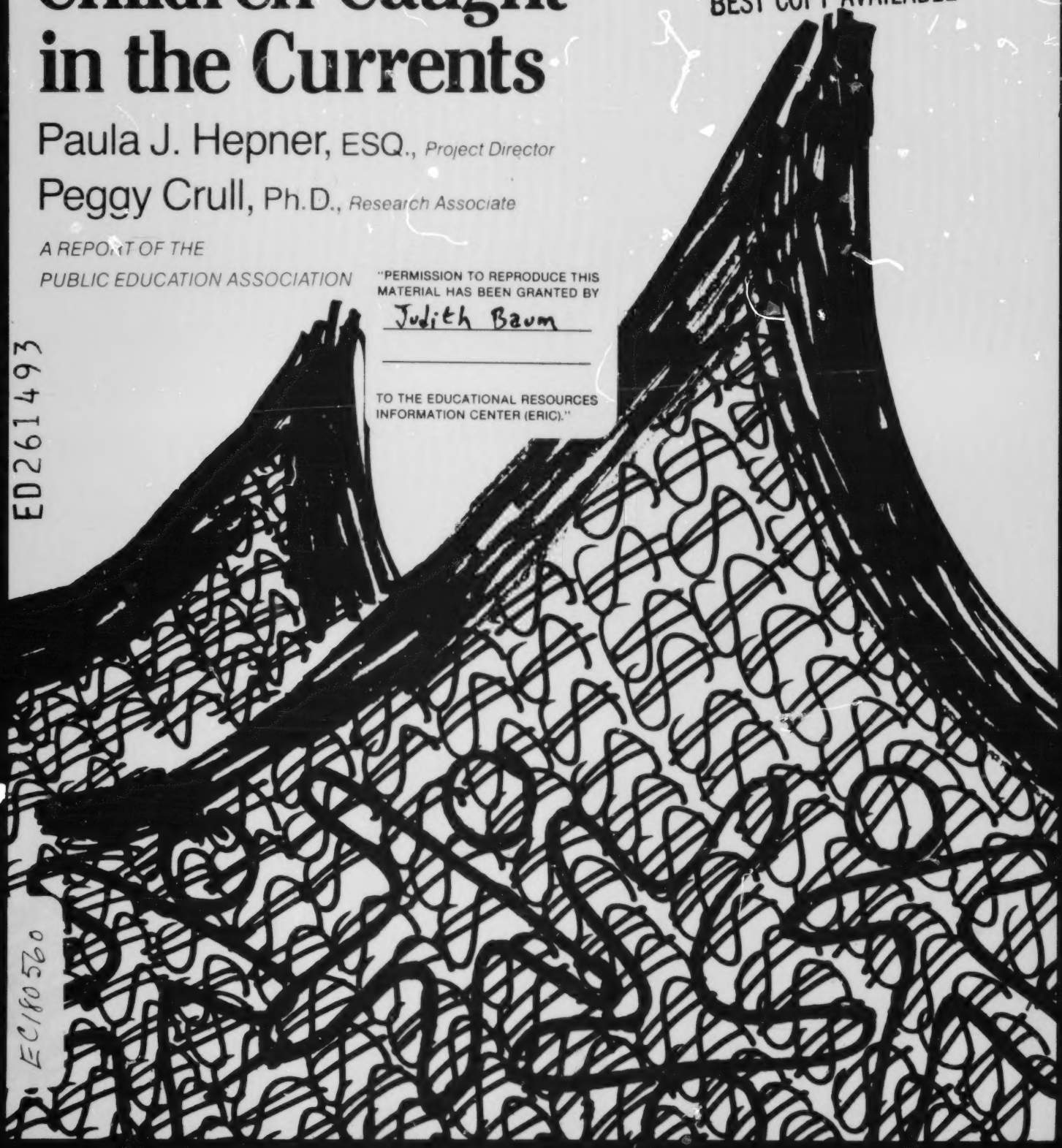

MAINSTREAMING IN NEW YORK: CHILDREN CAUGHT IN THE CURRENTS

A Report of the Public Education Association

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PREFACE

This is the time when special educators and school psychologists across the country are questioning the accuracy of diagnostic techniques which have produced a marked increase, nationwide, in the number of children identified as "mildly handicapped." This is also a time when a parallel inquiry among economic and political leaders is taking place because they are questioning whether their increasing investment in special education programs and services necessitated by the rising enrollment in special education is cost-effective.

The confluence of these two streams of inquiry has provoked state-and city-sponsored investigations into the cost and quality of special education in New York, each having the obvious purpose of developing recommendations for major changes in the financing and delivery of special education services in New York State. This report's debut is timed to coincide with and impact upon these deliberations.

The unifying theme throughout this report is the concept of mainstreaming, as embodied in P.L. 94-142, the Education For All Handicapped Children Act, and Chapter 853 of the Laws of New York, and the imaginative and innovative approaches of many other states throughout the country toward the integration of students with handicapping conditions into regular education programs and settings. Though the authors were greatly challenged by the formidable task of researching and presenting the history, philosophy and financing of mainstreaming programs which support the conclusions in this report, the authors wish

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December 31, 1984
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Paula J. Hepner, Esq.
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I. INTRODUCTION

In 1971 and 1972, after years of litigation, two federal court class action lawsuits challenging the Board of Education in Washington, D.C. and the Pennsylvania Department of Education for failing to educate children with handicapping conditions came to fruition. In these landmark cases, state and local education agencies were found to have violated exceptional children's "right to education" by denying access to or excluding them from the public school system.[1]

As a result of these cases and the increasingly vocal and visible advocacy efforts of parents and disabled individuals, the United States Congress enacted Public Law 94-142, giving disabled children the right to a free, appropriate public education designed to meet their unique and individual needs. The focal point of the rights created by this legislation is the guarantee to educate handicapped children in the "least restrictive environment," that is, with nonhandicapped children to the maximum extent appropriate. While Congress realized that these children's educational needs vary in severity, complexity and duration, the legislation nevertheless expressed an unmistakable intent to encourage education of these children in regular classes as much as possible.

For regular and special educators and administrators across the country, these 10 years since the passage of P.L. 94-142 have been a time of challenge, trial and error. In the course of ending the educational and social isolation of an estimated 10% of the children in our nation's schools, generation-old myths about people with dis-

abilities have dissipated and half-century-old theories of educating the disabled have been discarded.

But the realization of P.L. 94-142's mandates has taken time. In an early study on unanswered questions regarding the education of disabled children, school officials candidly admitted they did not expect to meet the law's objective of serving all identified children with handicapping conditions for at least three to six years beyond 1978.[2] And, indeed, not until last year's Report to Congress did the U.S. Department of Education confidently declare that most of our disabled children living in the community have been identified and are now being educated.[3]

In 1984, there is no question that children with handicapping conditions are entitled to the free, appropriate public education mandated by P.L. 94-142. That was confirmed by the Supreme Court when it said, in Board of Education of the Hudson-Hendrick School System v. Rowley, that the main purpose of P.L. 94-142 was to open the door of public education to children with disabilities.[4] Now, with record numbers of disabled children in the public schools, the harder issues facing regular and special educators in the next decade are those which concern the mandates of P.L. 94-142 and affect the kind of educational program that school districts will provide to each child. The additional goal set forth in the law, that of integrating handicapped children with their nonhandicapped peers to the maximum extent appropriate into the mainstream and, wherever possible, into regular classes, still is far from realization.

A central discussion in the Fourth Annual Report to Congress involves how difficult "the nation's teachers and administrators have

found the task of educating handicapped children with children who are not handicapped."[5] Remarks about problems school districts are having implementing the "least restrictive environment" mandates of P.L. 94-142's regulations appear in most of the annual reports to Congress since 1978.

Nevertheless, the statistics contained in the 1983 report to Congress show that, nationally, 67% of the children identified as "handicapped" are now being served in regular classes.[6] This demonstrates that at least some states have been able to move more quickly beyond the perfunctory issues of locating, identifying and placing handicapped children, to begin developing and experimenting with innovative programs to "mainstream" them, that is, integrate them into the regular education environment as well as integrate them into regular education programs.

New York, in contrast, appears to have devoted particularly little attention to the law's mandate to educate children in the least restrictive environment ("LRE"). In 1984, 55% of the handicapped students in New York were being educated in segregated settings. This is 2% more than the 53% who were segregated from the mainstream in 1974, just one year prior to the passage of P.L. 94-142.[7]

It is difficult to explain New York's delay in coming to grips with P.L. 94-142's LRE mandates. Because New York had enacted a law in 1973 with provisions similar to those of P.L. 94-142, school district officials in New York had a two-year advantage over their colleagues around the country with respect to the identification of children with handicapping conditions and the opening of educational programs suitable to their needs. Yet many states which did not begin serving

the broad spectrum of handicapped children until 1975, already surpass New York in the area of mainstreaming.

Were school districts in New York to suddenly press forward in the development of mainstreaming programs, their efforts would encounter a contradictory body of education law coupled with an inadequate state aid formula for funding special education--factors which impede, and may even discourage, such innovations. On at least three separate occasions since 1974, education officials and the legislature have been told that the education of children with physical, mental and emotional disabilities should move in the direction of greater mainstreaming and, in order to do so, revisions to New York's education laws and funding formulas would be required.

However, repeated failures to change the law and make this possible suggest a deep-seated reluctance on the part of New York's education officials to make the moves the law requires. Efforts to initiate mainstreaming programs have met with official resistance supported by arguments that seem to misinterpret the laws's fundamental intent and requirements, overlook the real cost of mainstreaming, and reflect a need to resist integration of children with disabilities in order to preserve regular and special education as separate professional domains. Until now, the state's arguments have been successful with the public, whose unfamiliarity with the broad spectrum of innovative mainstreaming programs in existence throughout the country has prevented them from evaluating the potential of these programs as alternatives to segregated programs, and pressing for their adoption.

Since the least restrictive environment mandate is clearly a central theme of the federal legislation, why hasn't implementation taken place? New York's hesitation to fully implement this requirement

raises questions about whether there are some justifications for refusing to do so. Have the law's mandates been discredited by practice? Is implementation administratively unfeasible? Or is this policy of integration still too offensive to the public or practitioners? While not legally persuasive, an affirmative answer to most of these questions might give pause to the advocate pushing for faithful adherence to the law.

The Public Education Association undertook the investigation reported here to answer these questions and to test the credibility of the arguments raised against mainstreaming. In the course of this project, we analyzed the legislative history of the mainstreaming concept and the LRE provisions built into this federal law and its regulations, studied the writings of distinguished educators, reviewed the literature and educational research on mainstreaming, solicited the views of education officials in other states having mainstreaming programs and traced the history of New York's special education and finance laws.

We found the arguments against mainstreaming do not withstand rigorous scrutiny. In fact, the legislative mandate for education in the least restrictive environment is rooted firmly in the thoughtful analysis of this country's most respected experts in the special education field. Their professional commitment to the principle of mainstreaming and their belief in its educational soundness were responsible for the incorporation of the least restrictive environment provisions into the language of P.L. 94-142. Neither subsequent educational research nor practice discredit the mandate. Therefore, we are forced to conclude that it is unconscionable for New York's educa-

tion officials not to move forward with a full range of mainstreaming options, at least on the same experimental basis as other states.

The inquiry which led to this conclusion is organized into two sections. The first addresses the legal and theoretical base for urging school districts to implement mainstreaming programs. The second section examines the present structure of New York's education law and finance system. The third part of this report contains recommendations for proceeding toward the development of a more viable system for maximum utilization of mainstreaming programs in New York. These recommendations contain specific proposals for immediate policy changes which will encourage experimentation with a broad range of programs for educating children with disabilities in the least restrictive environment. This report also includes proposals for revising New York's education and finance laws over the long term, to permanently authorize and fund programs for educating New York's children with handicapping conditions in the regular school environment.

II. MAINSTREAMING: THE PHILOSOPHY AND THE PRACTICE

A. The Legislative Intent of P.L. 94-142

The compelling need for the additional educational entitlement outlined in P.L. 94-142 occurred as a result of the well-documented exclusion and segregation of children with disabilities from the school system, which appears in the preamble to the legislation. When the law was passed in 1975 more than half of the eight million children with handicapping conditions in the country were not receiving appropriate educational services which would enable them to have full equality of opportunity. One million of them were excluded entirely from the school system and would not go through the educational process with their peers.[8]

To avoid perpetuating these practices, the Congressional authors of P.L. 94-142 wrote language into the statute declaring that children with disabilities should be educated in the "least restrictive environment," that is, to the maximum extent appropriate with their nonhandicapped peers. In order to accomplish this, the law requires school districts to develop a range of options for special education along a "continuum of alternative placements" beginning with instruction in regular classes.[9] The intent of the law was that no student "shall be removed from the regular classroom environment unless, with the use of supplementary aids and services, the child's education cannot be satisfactorily accomplished."[10] This mandate means that school districts must provide extra supports (such as teacher's aides, special instructional materials, or adjustments to the physical environment, and supportive services) in order to facilitate the education of dis-

abled children in regular classes before removing them from the regular educational environment for all or part of the day and placing them in a more restrictive program or setting. Although the word never appears in the law or its implementing regulations, this concept has come to be known popularly as "mainstreaming."

Perhaps the best-known approach for conceptualizing a progression of placements in the least restrictive environment is that of Maynard Reynolds who has actively investigated and advocated for the integration of children with disabilities into regular classrooms since the early 1960's and who testified at the hearing which preceeded the passage of P.L. 94-142. This progression orders education placements for the disabled from the least restrictive to the most restrictive. (See Chart 1, In the upper half, are placements which in the 1960's and 1970's were thought to be, of necessity, segregated in varying degrees in order to meet the special educational needs of these children. For this segment of the disabled population, more recent research has shown that these children are capable of greater integration into the regular school environment, and in the 1980's more of these children are being educated in special classes in regular schools. In practice, the most restrictive placements in the Reynolds continuum are used with decreasing frequency, and only for the most severely impaired.

The lower half of Reynolds' hierarchy contains the more "integrated" placements, ones felt by educators to be the most appropriate for students with mild handicapping conditions such as mild mental retardation, learning disabilities, and mild emotional disturbance. For this population, total integration into regular classes can be accomplished through the use of special aids and services, or supplemented by

Chart 1

REYNOLDS HIERARCHY OF SERVICES*

The Original Special Education Cascade

Limited educational environments outside of the school
Special treatment and detention centers
Hospitals
"Homebound" instructors
Full time residential school
Full time special day school
Full time special class
Regular classroom plus part time special class
Regular classroom plus resource room help
Regular classroom with assistance by itinerant specialists
Regular classroom with consultative assistance
Regular classroom
Move students this direction only as far as necessary
Return students as soon as feasible

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* Reynolds, Maynard C. and Birch, Jack W., Teaching Exceptional Children in All America's Schools, Reston, Virginia. Council for Exceptional Children, 1977, p. 32. Reprinted with permission of the author.

resource rooms and related services, and research is beginning to show the educational soundness of these models which Reynolds and others advocated in the 1960's.

Maximizing education in the LRE has taken longer and required greater patience, creativity, and cooperation than might be expected for such a basic concept. In a study to identify administrative strategies that promote effective integration of disabled children, it was found that any progress made in this area was accompanied by problems of attitudinal acceptance, age-appropriate placements and development of a planning process which involves the total school.[11]

The progress toward integration appears slow in part because the legal analysis has pushed the LRE mandate to its logical extent before educational programs to facilitate mainstreaming could be widely disseminated.

B. THE EDUCATIONAL DEBATE

Ever since Senate Bill #6, the forerunner of P.L. 94-142, was introduced in Congress, educators, parents, professionals and disabled individuals have debated the advantages and disadvantages of mainstreaming. Critics charge that an expansive interpretation of the requirement to mainstream handicapped students was not intended by the authors of the legislation mainly because there has been <u>no proof</u> of the positive educational and social benefits of mainstreaming <u>conclusive</u> enough to warrant an interpretation of the legal mandates with so broad a scope.

In response to the critics' first claim, it is clear the authors of P.L. 94-142 considered the concepts of free, appropriate, individually designed instruction, mainstreaming and the least restrictive

environment as the cornerstones of the statutory framework, and it was to protect these rights that the due process procedures were incorporated into the law, giving parents a voice in their child's education that would be heard.

Over the course of the nine public hearings held throughout the country prior to the finalization of S.6, testimony was given by many parents, professionals, educators and disabled individuals. Some of the most frequently repeated themes of these testimonies were the importance of mainstreaming to develop appropriate social behavior, the importance of academic as well as non-academic integration of handicapped students into the regular school environment, and the benefits of mainstreaming to self-concept and self-acceptance.[12] Even before P.L. 94-142 became law many people realized, and testified at these hearings, that the greatest barriers to mainstreaming would be administrative misconceptions, resistance from administrators, lack of integration between regular and special education, and teachers' unfamiliarity with mainstreaming.[13]

As proof that the fundamental notions of special education philosophy of integration and mainstreaming of long time advocates were not discarded by the authors of the legislation, language was written into the statute requiring states which receive federal funds under P.L. 94-142 to give assurances that they will provide handicapped children with an education in the least restrictive environment to the maximum extent appropriate.[14] When S.6 was introduced and the various sponsors of the law rose to speak in support of the bill, Congressional representatives and senators repeatedly expressed a desire, through this legislation, to reduce isolation and segregation of handicapped children and promote their full integration into the public

school system. The result was a law and a set of implementing regulations strongly committed to the education of students in the least restrictive environment, and a presumption that regular class placement with supplementary aids and services should be the placement of the first resort, a concept borrowed from the consent decree in PARC v. Pennsylvania, one of the two landmark cases to declare that mentally retarded children have a right to education.[16]

The conviction that mainstreaming would reap major educational and social benefits that was expressed in the S.6 testimony has not been unambiguously borne out by subsequent research. However, the published research on the effects of mainstreaming is far from conclusive in any direction for several reasons. First, definitions of mainstreaming vary so greatly in the research that it is difficult to know the precise features of the program studied and thereby determine analogous situations to which the results of a particular study can be applied. For example, the results of a study done on a "pull-out program in which handicapped children who are in special classes most of the time go to a regular class for two hours per day, would have limited use for predicting the experience of a small group of handicapped children who spend the whole day in a regular class with special education support services.

Secondly, research performed on more integrated mainstreaming models, similar to those described later in this report, is difficult to find and interpret. The programs studied are frequently pilot programs and their analyses are usually in the form of internal evaluations. While such studies are valuable, they may lack the objectivity of studies done by outside investigators. Both the general research and the internal evaluations tend to be anecdotal rather than

statistical. This means that reports of success or failure are based on personal impressions and on qualitative measures of progress and attitudes in these classrooms.

Even with these shortcomings, this research is helpful in making generalizations about the efficacy of mainstreaming through special education in the regular classroom. Whether from regular or special education, the experts, including the critics of mainstreaming, tend to agree that integrating special needs children into regular classrooms is beneficial under certain conditions.[17] For example, researchers who have examined mainstreaming programs found them to be effective when they had a distinct educational purpose. Those who saw mainstreaming as a money-saving device or simply as a necessary evil with which they had to comply, placed mildly handicapped children in regular classrooms without any special supports or teacher training. The result was frustrated teachers, neglected students, and confused parents. But when there was a conscious educational and social philosophy behind the programs, the participants were uniformly enthusiastic and satisfied with the results.[18] Others who have summarized the research on mainstreaming cite the presence of support services and flexibility of overall school programs as essential to the success of mainstreaming.[19] Even those who are generally skeptical of mainstreaming concede there are good mainstreaming situations. One researcher who is frequently cited for objecting to the placement of mildly retarded children in regular classes points to research showing that some of these students do well in regular classes with the aid of specific interventions to help with their social adjustment.[20]

A large number of research studies attempt to demonstrate whether students make better academic progress with mainstreaming. However the

essence of what they have found is that academic progress is more influenced by educational technique than the setting in which the instruction takes place. For example, one study concludes after a comprehensive review that learning disabled, seriously emotionally disturbed and educable mentally retarded children appear to achieve as well and possibly slightly better in less restrictive settings.[21] However, the researchers emphasize that the key to improved performance is the type of instruction. Instruction in which the goals and objectives are clear, instructional devices are specified, and mastery learning techniques are used, is found to be successful in both special and mainstreamed classes. Another researcher concurs with this conclusion and adds that, unfortunately, the real problem is that academic improvements achieved in both special and regular settings seem to fade as soon as the special educational support of these techniques is withdrawn.[22]

Individualized instruction, which is the basic premise behind the individualized education programs mandated by P.L. 94-142, is a technique essential for mainstreaming handicapped children, but it is also helpful when extended to all students. One study of students mainstreamed for part of the day showed that all students, whether they were handicapped or not, spent more time on task when their instruction was individualized.[23] The benefits of individualized instruction are also amply demonstrated in an evaluation on classes operating under the Adaptive Learning Environments Model ("ALEM") where individualized instruction and self-management is used for both handicapped and nonhandicapped students in mainstreamed classes. An analysis of math and reading scores from elementary students in ALEM showed that learning disabled, mildly emotionally disturbed and educable mentally

retarded children made significantly greater gains than expected for students with those handicapping conditions when compared with a national norm. Third graders in ALEM, handicapped and nonhandicapped combined, made larger gains in math than third graders in non-ALEM classes with no handicapped students. There was no difference in reading gains.[24]

Despite these findings which seem to indicate that students with mainstreaming experience achieve either the same academic results as students in special classes or, in some, slightly better results, some experts contend that the very nature of integrated classrooms puts mildly handicapped students at an academic disadvantage.[25] For example, one researcher suggests that learning disabled students have problems with memory and sequencing that require separation from regular class instruction.[26]

Aside from academic progress, educators are concerned with the social adjustment of children in mainstreamed programs. Here, however, there is even less actual research. Opinions on the possiblity of progress in social interaction and development of handicapped students in mainstreamed settings are frequently offered, despite the paucity of studies.[27] They range from an apparently enduring conviction that learning disabled and educable mentally retarded students in regular classes inevitably face embarrassment and social ostracism because of their odd behaviors, to a hopeful optimism that appropriate interventions can assist both handicapped and nonhandicapped students acquire the skills needed for successful social integration.[28] Even the most doubtful of the researchers point to the need to try systematic intervention strategies before concluding that such integration is not feasible.[29]

The major review of the available controlled research on this issue found studies showing educable mentally retarded students in regular classes have more negative self-concept than those in restricted settings.[30] However, the authors of the review are not convinced that the multiple choice methodology generally used in those studies is appropriate. They are more convinced by the results of another study based on extensive interviews which found that educable mentally retarded children in special classes had considerably worse self-image than their peers in mainstreamed classes.

Interestingly enough, most of the research about the positive or negative effects of mainstreaming is not based on actual research data but on the impressions of the teachers. The most enthusiastic feedback has come from teachers trained in special education who have begun to take new consulting roles as handicapped children move into regular classrooms. They observe that thoughtful mainstreaming programs vastly improve the education of learning disabled, mildly emotionally disturbed, and educable mentally retarded children as well as those children with visual and hearing impairments.[31] The most negative feedback has come from regular education teachers who receive these children in their classes or who are not allowed to refer them out. These teachers complain that they are unprepared to handle these children or teach to their needs and they fear they are neglecting the nonhandicapped students whom they were trained to educate.[32]

Before leaving the question of whether mainstreaming students with handicapping conditions provides real educational and social benefits, we must look to one other relevant group of studies which illustrate the underdeveloped state of the art in the diagnosis of mildly handicapping conditions. Several dramatic studies have demonstrated that

many students are being inappropriately placed in special classes. In particular, investigations coming out of the University of Minnesota's Institute for Research in Learning Disabilities indicate that students are referred for vague reasons, tested inadequately and placed in special classes based on subjective and inconsistent criteria.[33] More specifically, in one experiment well over four-fifths of both a group of regular students and a group of low achieving students were classified as learning disabled. Based on those results, the authors infer many students referred out for special education are mislabeled and inappropriately placed. They suggest that regular classroom interventions such as "special education in the regular class" ("SERC" described in Section C below) would circumvent stigmatizing and incorrect labeling while at the same time provide a method for meeting the learning needs of a diverse student population.[34]

After 10 years of experience with P.L. 94-142 and experimentation with mainstreaming, two prominent special educators have concluded that special and regular education must unite into a single, comprehensive system in order to effectively integrate handicapped children with their nonhandicapped peers. The immediate and vocal reaction to their call from other leading figures in the field has ranged from reluctance to outright hostility, once again, citing the regular educators' negative attitudes toward mainstreaming and individualization of instruction, and their inadequate preparation to teach the wide variety of children with special needs.[35]

Their conclusions are strongly supported by the findings of the Panel on Selection and Placement of Students in Programs for the Mentally Retarded, which was created in 1979, in response to national surveys from the Office of Civil Rights that showed an over-repre-

sentation of minorities in special education programs for the mentally retarded. Information gathered by the panel revealed that similar educational processes and techniques appeared to be effective with students categorized as having "learning problems" without regard to their classifications, e.g. educable mentally retarded, learning disabled or those entitled to compensatory education. These findings present state education officials with a challenge to justify their resistance to SERC and provide a basis for holding them accountable for their position in light of the panel's conclusions.[36]

C. SPECIAL EDUCATION IN THE REGULAR CLASSROOM

In the spirit that we must create a supportive setting before we can know the true effects of mainstreaming and interventions in the regular classroom, educators have carefully designed and implemented active programs throughout the country to serve as laboratories for observation. These laboratories demonstrate how to meet the conceptual and practical problems that arise in attempts to mainstream. A number of different educational practices have been used to achieve the goal of integration. One widespread method used in New York City is a "pull-out" program in which handicapped children are sent into a classroom of nonhandicapped children for a few periods a week for either academic work or a non-academic subject such as music or physical education. The bulk of their school day, however, is spent in a separate special class where education is specially designed for them. Perhaps the most popular form of mainstreaming is the technique which employs resource rooms. Here handicapped students spend most of their school day in a regular class without any special education supports, but leave for several hours a week of small group, special instruction

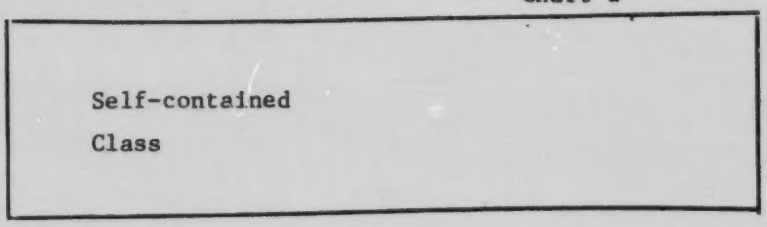
in a "resource room" from a teacher certified in special education. However, the educational format that most fulfills the mainstreaming concept for mildly handicapped children is that in which supplementary aids and services are employed within the regular classroom so that the child spends as little time as possible outside that classroom.

The use of supplementary aids and services within the regular classroom makes possible the delivery of special education services by means of adapting that environment to the unique needs of the child. It seems that the general public (including parents of handicapped children) and even educators are unaware of the continuum of services that should be available to provide maximum mainstreaming and that "special education in the regular classroom" [37] is part of that continuum and considered the placement of first resort under the law. (See Chart 2)

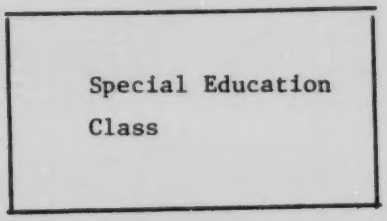
"Special Education in the Regular Classroom" ("SERC") serves two distinct purposes. First, it can be a way to get mildly handicapped children who are referred out of regular classes to segrated special classes and schools back into full-time regular education. Called "bringing the children back" by the authors of a recent review of such programs, it is a kind of "rehabilitation" into a regular education accomplished through the permanent use of special education supports (both human and material) by the regular teacher. The second purpose of SERC is to prevent the referral of such children out of the regular classroom ("never moving them away") simply because the teacher does not have the knowledge or resources to educate them there.

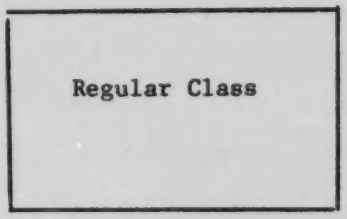
There is no single way to accomplish "special education in the regular classroom." A number of conceptual models have been developed. Approximately seven major models which could be labeled as

Chart 2

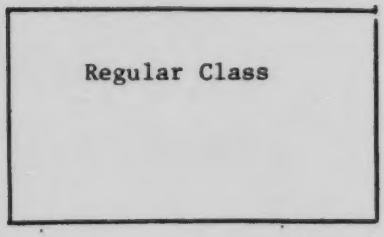


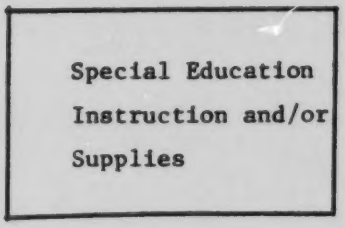
a. Self-contained program-full



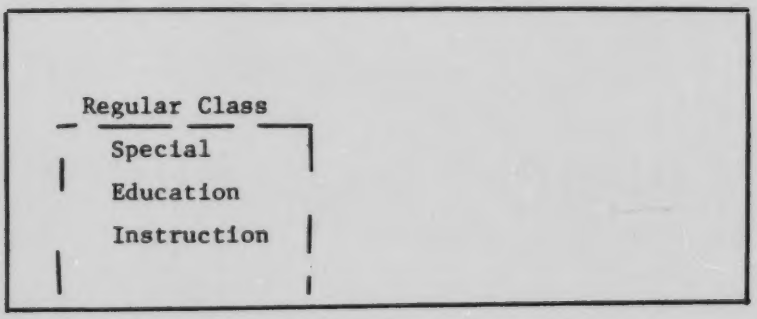


b. Part-time self-contained class with pull-out program for mainstreaming

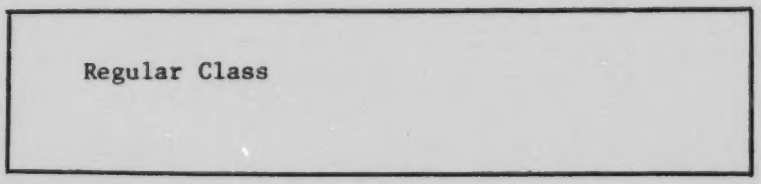




c. Regular class with resource rooms and itinerant services through pull-out program



d. Special education incorporated into regular class (SERC)



e. Regular class program full-time

SERC's were derived from a recent national survey seeking descriptions of mainstreaming programs.[38] Appendix A describes each of these. What makes the term "special education in the regular classroom" applicable to all of them is that special interventions and instruction are accomplished within the regular classroom. While some programs that we would call SERC's do take children from the classroom for special work, it is usually not limited only to the "handicapped" children in the class. Additionally, the special work is not limited to the time away from the regular class, but is also reinforced by the regular teacher together with consulting special teachers in the daily class activities.

A number of states have instituted innovative statewide or local plans designed to end the segregation of handicapped students, which are based on creative combinations of consulting teachers, learning centers, and individualization of instruction. Equally important, they all depend upon the creative use of state aid formulas to provide funds to implement the programs. A sample of these plans is instructive:

Vermont. Largely because of the small, scattered handicapped student population, Vermont has implemented a highly developed consulting teacher plan throughout the state. Consulting teachers are trained in special education and perform a whole range of educational tasks from helping develop individualized education programs (IEP) to team teaching with regular education teachers. They conduct workshops and training sessions for the regular teaching staff. In some cases they function as resource room teachers and they are often assisted in diagnosis or development of IEP's by speech/language pathologists, counselors and teacher aides. There is approximately one consulting teacher and one teacher aide per 500 handicapped and nonhandicapped

students and 20 teachers, resulting in a student/teacher ratio of approximately 1:22.

In operation for nearly 10 years, the Vermont consulting teacher program is funded primarily through state funds. Whether they serve in resource rooms or in a strictly consulting/team teaching capacity, state aid reimburses 75% of the costs of these teachers' salaries. For special classes the state reimburses 100% of the costs over and above that of regular education. Thus, mainstream classes and special classes are aided in different manners. Although students must be diagnosed and classified as "handicapped," in order to be eligible for special education, their particular handicap has no bearing on the level of aid they will receive. It is frequently hypothesized that fiscal incentives are the root cause of handicapped children being placed in more restrictive settings than their educational needs might otherwise require, Vermont's state aid reimbursement formula gives school districts more money for segregated, self-contained programs yet the majority of handicapped children are placed in regular classes where local districts bear one-fourth of the excess cost for consulting teachers' salaries.[39]

Massachusetts. Mainstreaming efforts began in Massachusetts well before the passage of P.L. 94-142. An extremely broad and detailed range of educational options is available for children with handicapping conditions beginning with the most integrated option, a regular program with modifications. For example, upon the recommendation of the child's evaluation team, the regular classroom might be rearranged so that a deaf child can be close to the teacher in order to lip read and use special materials. Personnel specified by the administrator of special education can also be assigned to work with the regular class-

room teacher to assist in making modifications in each child's program.

Under the Massachusetts scheme, any services recommended for the child are provided in the regular classroom wherever possible. If it is not possible to serve the child's needs entirely within the regular classroom, the next service option is a regular education program with no more than 25% of the time out of the classroom for special instruction in small groups. As the continuum progresses, service options increase in their degree of removal from the regular classroom and in reduction of the class size.

State aid is allocated for each child receiving special education services based on the type of special education class to which s/he is assigned. All children in special education receive four times the per capita allocation for children in regular education. In addition, an extra amount is added for the type of class. "Regular classes with modifications" receive a relatively small extra allocation while special classes and schools receive larger excess cost allocations.[40]

Minnesota. An active statewide program in Minnesota has pioneered retention of visually, hearing and orthopedically-impaired children in regular classes. Specially trained consulting teachers go to the classrooms where these children are enrolled and assist the teacher and the child with any specialized equipment being used. The consulting teacher begins by working with the child, eventually withdrawing and working mainly with the regular classroom teacher. Social integration is as important as academic integration and the consulting teacher is also involved with this part of the child's program. Educable mentally retarded as well as learning disabled children are mainstreamed in a similar way.

Instituted in 1970, the program is reimbursed by the state for 70% of the consulting teachers' salaries with the differential made up by the local school districts. Before this program was started, special education funding was based on fixed amounts for each handicapped child rather than teacher salaries.[41] Another mainstreaming program, the Adaptive Learning Environments Model, ("ALEM") is in operation in Minnesota's Montevideo School District. It is adapted to both low-achieving and mildly handicapped students. Regular teachers work with special education consultants to design an individualized program for each child (handicapped or nonhandicapped). The child participates in the management of his/her own program which allows him/her to progress at an individually determined pace. When this pilot program began in 1982, the state waived laws which required that a teacher must be licensed for the appropriate type of handicap in order to teach a class.[42]

The programs described above represent only a few of the mainstreaming variations in operation throughout the country. Other notable examples can be found in California, Pennsylvania, Illinois, Wisconsin, the District of Columbia and Utah.

III. THE EMPIRE STATE LAGS BEHIND

A. ADMINISTRATIVE AMBIVALENCE

New York was one of the early states to enact legislation governing the education of handicapped children. Following recommendations made by a Joint Legislative Commission of the Senate and Assembly, Chapter 820 of the Laws of 1940 created specific provisions and a revised state aid formula for education of the deaf [Section 4201], blind [Section 4301], and of the physically or mentally handicapped and delinquent children [Section 4401]. School districts with more than ten physically or mentally handicapped children were required to set up classes "adapted to their mental attainments."[43]

The early progressive momentum, however, was quelled sometime between the 1940's and the mid 1970's. Only 120,000 handicapped students, principally the retarded, emotionally disturbed, and the physically handicapped, were being educated in New York's public school system at the time of the passage of P.L. 94-142. Under pressure from the federal law, the number of handicapped students in New York more than doubled (256,000) by 1984.[44] A broader range of programs serving the needs of more categories of children (resource rooms for the learning disabled, for instance) was created, making less restrictive placements possible.

The progress in identifying and placing handicapped children in programs throughout the state was not matched by progress toward integration. The findings in the U.S. Department of Education's 1983 Program Administrative Review of New York's implementation of the requirements of P.L. 94-142 show that New York places a "significantly higher

percentage of its handicapped children in special classes (51.3% versus 25.4% nationally) and a significantly lower percentage in regular classes (45.51% versus 67.70% nationally)."[45] Even the state's resource room program, one of the two "least restrictive" special education options available in New York, has a disproportionately low enrollment.[46] (See Chart 3)

Some of the reasons for this failure to integrate handicapped students were revealed in two New York based studies which uncovered hesitations on the part of local education agencies to move toward mainstreaming. A 1979 study of children with spina bifida in Western New York, showed placement procedures varied among school districts and often did not meet state mandated requirements.[47] In one district these children would be accommodated in regular classes while in other districts they would be placed in self-contained programs or sent to a BOCES (Boards of Cooperative Educational Services) program in a special school, even though their needs could be met in a regular classooom. More recently in 1983, there was a survey of officials and staff in four local school districts in New York: two urban , one suburban, and one rural. Again, different degrees of compliance with state and federal laws governing the least restrictive environment were found. Where there was compliance, the study found it was too frequently to the letter rather than the spirit of the law.[48] A careful analysis of the reasons for the lack of compliance with the law revealed that school officials were either not convinced of mainstreaming's educational value, or they were confused by information and directives from the State Education Department, finding them unclear and often conflicting. There was general lack of knowledge, among these officials,

CHART 3
NEW YORK STATE EDUCATION DEPARTMENT
INFORMATION CENTER ON EDUCATION

PHC-1 -- Part A
School Age Handicapped Pupils by Type of Service, Location, and Handicapping Condition

December 1, 1982

REGION: TOTAL STATE

Handicapping Condition	*******Programs in this District********* Resource Room	Special Class	Related Services	Home Inst.	Other School District	****BOCES Programs**** Resource Room	Special Class	Related Services	State Op./ Supported (4201)	Priv. Sch. (4402/ 4407)	Other	Total
Mentally Retarded	2485	21420	54	67	755	110	7768	36	-	2415	177	35287
Autistic	6	612	2	2	4	-	172	1	1	209	10	1019
Emotionally Disturbed	5857	25037	433	1615	157	67	4884	15	-	2899	200	41164
Speech Impaired	10591	2658	22652	8	51	88	532	772	-	92	20	37464
Deaf	251	804	82	2	29	43	232	36	1778	74	13	3344
Hard of Hearing	357	194	293	-	32	74	246	110	-	18	4	1328
Visually Impaired	579	335	214	4	3	54	37	273	291	48	5	1843
Ortho Impaired	294	1142	414	98	74	5	431	69	140	335	17	3019
Health Impaired	621	2173	412	196	14	123	464	21	-	832	17	4873
Multiply Handicapped	241	1337	48	52	117	14	1826	14	151	996	75	5371
Learning Disabled	62115	47572	502	73	365	1007	3492	32	-	840	107	116105
TOTAL	83397	103784	25106	2117	1601	1585	20084	1379	2361	8758	645	250817

officials, about the concept of mainstreaming, and what it means in terms of a child's educational program.

The fate of the pilot program to provide special education within the regular classroom setting, begun in New York City in 1982-83, illustrates that this hesitant approach toward the issue of mainstreaming is shared by state officials. The program, the Adaptive Learning Environments Model (see page 23 for a description of the model) was begun as a three year demonstration program in five schools in New York City for children classified as learning disabled in kindergarten through fourth grade. It was enthusiastically received by teachers, students and parents alike. Because it was a pilot program, special district funds were allocated for it. However, at the end of the first year of the pilot period, it was discontinued because no state special education aid was available to support the excess costs of the program.

The reaction of the state was puzzling. In the words of one official from the State Education Department:

> Project ALEM is essentially a management system which allows teachers to provide highly structured, individualized instruction to all of the students in the class. It represents really fine regular education. There is no visible difference between the handicapped students and the nonhandicapped. Staff of the program reported that the handicapped students showed excellent progress, often exhibiting more than a year's growth during a year in school. (49)

This same state official also observes:

> ALEM seems like an extremely good regular class intervention for students experiencing learning and/or behavior problems in more traditional regular class settings and would be an equally good setting for students formerly in self-contained special education classes who are ready to be mainstreamed with transitional support services. (50)

Yet in spite of this positive appraisal of the result, this person questions the legality of having handicapped students in such classes because this would not conform with the state special education law and regulations. While acknowledging that this classroom configuration is slightly more costly due to the additional personnel required, the state made no move to aid the program. Instead, all of the state officials involved said that the program was simply regular education and therefore not fundable with special education dollars.

Perhaps the most surprising aspect of another official's appraisal was the implication that ALEM does not qualify as special education since there is "no modification of instructional methods or materials." On the contrary, argued Maynard Reynolds:

> Just the opposite is the fact! Probably no educational program ever designed involves more differentiation in methods and materials for all students, including especially intensive efforts on behalf of those who represent the clearest, or most extreme cases of need for adaption. (51)

More importantly, what chacterizes special education is the intensive effort to make certain that instruction is adapted to individual needs. This particular philosophy was the centerpiece of the ALEM program.

The ALEM example crystalizes the question about what has held New York back. Why would the state choose to call such a placement illegal and unfundable in the face of evidence that it was so successful for mildly handicapped children? The contrast between this hesitation in New York, and the enthusiasm of educators and officials in the states discussed earlier, is disturbing. Given the legal mandates for education in the least restrictive environment, as well as the considerable

justification for mainstreaming in educational theory and social policy, New York's position regarding special education in the regular class needs careful examination.

B. LEGISLATIVE CONTRADICTIONS

Analysis of the current laws and regulations in New York State governing special education uncovers a major contradiction with respect to providing special education in regular classrooms. The contradiction is only evident through a careful reading of these provisions.

The Part 200 regulations which define how the state special education law should be executed, and what services should be provided, appear to encourage education of handicapped students in regular classrooms. The regulations state that students should be educated in the least restrictive environment, one which "provides for education of the pupil to the maximum extent appropriate with other pupils who are not handicapped." But the continuum of services incorporated in these regulations to achieve this goal limits the placement of handicapped children to the following:

transitional support services - consultative services of a temporary nature that are provided to a classroom teacher as a child moves from any level of special education into a less restrictive program;

related services- supportive, developmental or corrective services provided individually or in conjuction with a regular or special education program;

resource room services - specialized supplementary instruction in groups no larger than six children for a minimum of three hours per week and a maximum of 50% of the school day;

special classes - small group instruction in self-contained classes in public schools or public or private day schools serving children of similar learning needs for all or most of the school day with mainstreaming as appropriate;

residential placement, home or hospital instruction - intensive, structured 24 hour therapeutic settings for children with extreme physical or emotional disabilities.[52]

Conspicuously absent from this continuum is a placement that might be called "special education in the regular classroom," one which provides "supplementary aids and services" on an ongoing basis and allows a mildly handicapped child to stay in a regular classroom or be brought into it from a more segregated program.

Although it may appear that the "transitional support services" listed at the beginning of the continuum are the same as the "supplementary aids and services" required by federal law, they are not because they are only temporary. They are intended to be removed as soon as the child has completed the move from a more to less restrictive environment and made all the necessary adjustments. Thus, a child might be assigned a teachers' aide upon being integrated into a regular class. However, the assumption behind the law is that within a few weeks or months the child would be able to function in the class without the aide. If the aide were a permanent requirement for the child to be able to stay in the class, the placement could not be made under New York law as it presently reads. Only if a handicapped child can stay in a regular class without any specialized personnel or individualized instruction within that classroom is s/he eligible for full-time regular class placement under the New York regulations. In

that case the child is decertified and no longer considere "handicapped" meaning, "in need of special education."

State officials contend that it is not possible under the law to define education that takes place in a classroom headed by a regular teacher as "special education." Only if the primary classroom teacher is certified in special education is it considered a special education placement. This means that supplementary or specialized instruction that could be designed for a handicapped child by a special education teacher but provided either by the regular classroom teacher or the consulting special education teacher in a regular classroom (i.e., special education in the regular classroom) is not considered "special education" under the state regulations and, more important, is not eligible to receive special education funds. The view of state officials, then, is that SERC even with its methods for individualized instruction constitutes regular education. State officials see no contradiction between this situation and the least restrictive environment mandates of P.L 94-142 or the opinions of prominent special educators who favor mainstreaming, and they maintain that New York has a full range of mainstreaming options available under the present service configurations.[53]

With other states so willing to extend the mainstreaming concept to its broadest limits, New York's interpretation of P.L. 94-142 and its regulations in a manner so contrary to the intent of Congress must stem from a conscious choice on the part of the state to avoid special education in the regular classroom, rather than from any vagueness or inconclusiveness in the language of the federal legislation.

C. THE FUNDING GAP

All state laws with respect to definitions and placements go hand in hand with formulas for funding those programs. New York's formula for providing state aid exacerbates the problems created by the contradictions in the state law.

In spite of the intention of the drafters of P.L. 94-142 to fund a major share of the costs incurred by the states in carrying out the law's mandates, responsibility for funding special education programs and services has fallen more heavily on state and local governments due to the shortfall in federal appropriations. Originally the 1975 law authorized the federal government to fund an increasing portion of the excess cost of special education beginning with 5% in 1975 and rising to 40% in 1978 where it would remain.[54] The aid which has been forthcoming, however, has never exceeded 12% of the excess costs calculated at the nation's annual per-pupil expenditure.[55] States and local districts must fund nearly all of the expenses in order to make up for the decreased federal funding. Because the appropriation is based on a national average cost, urban school districts pay an even greater share.

The result has been increased animosities among state and local education administrators who feel they have been left holding a very expensive bag. This has fueled a backlash throughout the education community which is reflected in the attitudes of New York education officials. The tone of the literature about the funding of special education that emanates from the State Education Department and the legislature is one of unwillingness to spend the money that is required for special education. Like their colleagues throughout the country, New York's education officials express a fear that if spe-

cial education spending were to go unchecked it would exhaust state budgets. These fears seem somewhat unrealistic when we look at actual figures such as those from New York City which show that instructional programs for the handicapped (one tenth of the city's entire public school population) consume only 11.9% of the entire school budget (excluding transportation costs).[56]

In their anxiety to minimize these feared costs, New York education officials have taken several tacks, none of which has been particularly helpful in reaching the goal of mainstreaming. First, they have consistently attempted to find ways that would minimize the state contribution to the extra costs of special education, leaving it to the local districts to come up with the money. Second they have left the entire burden of paying for special education in regular classrooms to the districts, perceiving it to be an expense of regular education budgets. An examination of the current statutes governing how the state distributes aid to special education and why this method was chosen will illustrate this.

1. The Current State Aid Formula for Special Education

Generally, three types of education finance formulas are used to apportion state aid to special education programs. They are resource-based, pupil-based, and cost-based. Resource-based formulas allocate funds according to large units such as classes or teachers. Pupil-based formulas calculate aid on a per-pupil basis and allocate funds according to the number of children in a class. Cost-based formulas simply reimburse school districts for all or part of the special education costs over and above the cost of pupils in regular education programs.[57] (See Appendix B)

Over the years, New York has enacted different laws and aid formulas according to the changing needs, political pressures and evolving education program and finance options. In recent years, New York has had a pupil-based budget. This, however, was not always so. In prior years, the formula for special education services was resource-based. More significantly, earlier in its history, New York's laws and funding formulas contained the seeds for delivering special education services in regular classrooms by funding the cost of special teachers for physically handicapped students attending regular education classes. But this service option was removed in subsequent revisions of the law.

In order to understand the reasons why New York's current formula has less potential for integrating handicapped children in the mainstream than in the past, it is important to analyze the formula's various components. The present funding formula was established in the spring of 1980. In the education budget enacted as Chapter 53 of the Laws of 1980, money is allocated according to two formulas -- in an operating aid formula, which provides money designated for the basic operations of the school system, and in a categorical aid formula, which provides money designated for special purposes or programs (e.g. special education).

The operating aid formula is divided into three parts: aidable expense, the aid ratio, and aidable pupil units. The amount of aid a district will receive is the product of these three numbers. In its simplest form, the formula reads as follows:

58

District Aid = Aidable Expense x Aid Ratio x Aidable Pupil Units
(per pupil) (in that District)

Aidable Expense is the district's cost of the items which the state allows to be included in operating expenses for the public school system up to a cap ($2750. per child in 1984). The aid ratio is the proportion of the per-pupil expense for which the state will reimburse school districts. The aid ratio varies according to a district's wealth. This is the device the state uses to equalize expenditures throughout the state. For example, in the 1984-1985 budget, the state is paying 36% of the per pupil expense for a district of average wealth. Wealthier districts will receive less than 36%; poorer districts will receive more. Aidable pupil units is the last number in the formula and refers to the number of pupils who receive aid. The operating aid formula includes extra weightings for pupils receiving certain services [remedial education] or enrolled in certain programs [high school]. Handicapped students, for this purpose, along with nonhandicapped students receive a weight of "1" in the operating aid formula. Additional weightings for handicapped students are incorporated in the categorical aid formula which is explained below. Chart 4 shows the expense ceiling, aid ratio and pupil weightings in the 1984-1985 operating aid formula.[59]

Special education is aided in a separate categorical formula called an excess cost formula. This label is slightly misleading since New York's is not a pure excess cost formula as in many states. In pure excess cost formulas, districts simply keep track of the actual special education costs that are over and above those of regular education and then are reimbursed by the state for all or some set portion of the costs. The New York formula is based on a one-time estimate of excess costs per pupil rather than actual costs each time the aid is calculated. This estimate was then used to create a pupil weighting.

Chart 4

OPERATING AID FORMULA

Tier 1 Aid[a] = Aidable Expense ($2,750 ceiling in 1984-85) x Tier 1 Aid Ratio[b] (36% for district of average wealth) x Selected Total Aidable Pupil Units (Basic Weightings[c] =

½ day kindergarten.....	.50
Kindergarten-Grade 6...	1.00
Grades 7-12.....	1.00
Dual Enrollment.....	1.00
Additional Weightings =	
Secondary[d].....	.25
PSEN[e].....	.25
Summer School.....	.12
Evening.....	.50)

---

a From 1980-1983-84 operating aid was divided into two "tiers." Tier 1 was regular aid and Tier 2 was aid for districts with high costs. However, in 1984-85 the two formulas were combined and are simply called Tier 1.

b For actual calculations of the aid ratio, see 1984-85 New York State Executive Budget Recommendations for Elementary and Secondary Education, p. 69.

c In the Operating Aid formula handicapped students receive a weighting of 1 and the additional weightings where appropriate.

d State law specifically excludes handicapped students in special education classes and resource room programs from the benefit of this added weighting /N.Y. Education Law, Article 73, §3602.9-a/

e PSEN (pupils with special educational needs) are third and sixth grade pupils who scored below a certain level on state reading and mathematics tests who are eligible for remediation programs.

Although the formula is more appropriately labeled "weighted pupil/estimated excess cost" the term excess cost will be used in this report since it conforms with all the literature published by the state.

New York's excess cost aid formula has three elements similar to those in the operating aid formula and the amount of aid a district will receive is the product of them:

District aid = Aidable Expense (per pupil) x Excess Cost Aid Ratio x Weighted Handicapped Pupil/Units (only the extra weight)[60]

The aidable expense is the district's expense per pupil but the state has established a minimum and maximum dollar figure which they will allow the districts to use in this calculation. The excess cost ratio is the proportion of those expenses that the state will pay. This aid ratio also varies depending upon a district's wealth. For 1984-1985 the state reimbursement to the districts of average wealth was 49%, with wealthier districts receiving a lower percentage and poorer districts a higher percentage. However, because of the concern about the overconcentration of special education students in urban districts, a minimum of 25% of the additional expenses per handicapped child is allowed, even for the wealthier districts.[61] The product of these two numbers is then multiplied by the number of handicapped pupils weighted according to the type of service they receive.[62] (See Chart 5)

In New York, the excess cost aid formula covers handicapped students who attend regular public schools, special public schools, and BOCES (not available in New York's five largest cities) programs, as well as those who receive home or hospital instruction. What determines the amount of aid a student will generate is not the place (e.g. school or hospital) where instruction is received, or even the type of handicapping condi-

Chart 5

BASIC EXCESS COST AID FORMULA FOR PUBLIC SCHOOLS, BOCES, AND HOME AND HOSPITAL INSTRUCTION

BASIC EXCESS COST AID =

Aidable Expense	x	Excess Cost Aid Ratio[a]	x	Weighted Handicapped Pupils
(Minimum = $2,000 Maximum = $3,300)		(49% for district of average wealth 25% minimum.)		(Weightings = Self contained class, school, or home or hospital instruction 60% of day or week..... 1.70 Resource room 20% of day..... .90 Related services 2 periods per week..... .13)

---

[a] For actual calculations of the excess cost and ratio, see 1984-85 New York State Executive and Budget Recommendations for Elementary and Secondary Education, pp. 51-52, 70-71.

tion, but the type of service (special class, resource room, related services) the student receives, and how much of the day or week the child is segregated from nonhandicapped children to receive special instruction. The greater the amount of segregation, in terms of time and setting, the higher the aid level.

In the funding statute, the following service-based weightings are established:

a) students who require placement in special classes or programs for more than 60% of the school day, or who require home or hospital instruction for more than 60 days, receive a weighting of 1.70 for payment under the excess cost formula. This is in addition to the money they generate in the operating aid formula where they are also counted as "1";

b) students who require placement in resource rooms or special programs and services for 20% or less of the week receive a weighting of .9 and generate that amount of aid in addition to the aid they will generate as an individual student in the operating aid formula; and

c) students who require special instruction in speech or in another special program or service for two or more periods per week receive a weighting of .13 and generate that amount of aid in addition to the aid they will generate as an individual student in the operating aid formula.[63]

There is an additional high cost excess cost aid formula for situations in which the cost of educating a handicapped pupil exceeds $10,000 (residential placements) or four times the average operating expense. The aid ratio is 49% with a minimum of 24% , but students rarely qualify for this aid. (See Appendix C)

A district also receives state aid for handicapped students educated in private schools but it is allocated according to a different formula

than for the public schools, BOCES, home and hospital instruction. For students in private schools, districts count them as individual students in the operating aid formula but they are also counted in a private school excess cost aid formula which provides additional aid with a maximum reimbursement to the districts 85% and a minimum reimbursement of 50% as opposed to the 49% special education excess cost reimbursement for students served by the public schools in districts of average wealth. (See Appendix D)

2. Why The Formula Was Chosen

The current aid formula was enacted in 1981 as Chapter 853 of the State Education law. One of the major goals of this legislation was to consolidate the five different funding formulas that had existed from 1974 to 1979. A second goal was to devise a method that allocated aid based on services provided rather than according to the handicapping conditions of the child. There were two resons for this. First, it would eliminate stigmatizing labels; and second, it would be a more realistic way to determine how much aid is needed. The third goal of the 1980 legislation was to have the service-based aid accurately reflect the costs of the services.

At the request of the legislature, the State Department of Education conducted a cost study in 1978-79 and considered several funding options before recommending the present aid formula.[64] The average excess costs per child for special class, resource room and related services were extrapolated from answers to questionnaires filled out by a large number of school districts. The cost estimates supplied by the districts were used in determining the weights given to each of these services in the excess cost aid formula.

According to its own report, the state was unable to obtain accurate or complete data from all 332 school districts.[65] Regrettably, the results of the study were incomplete because not all of the districts kept their records in such a way as to be able to retrieve the necessary information. The study produced usable data representing 60% of the students in the state. Apparently many of the New York City districts were among those who could not or did not complete the questionnaires.[66]

Because of these inaccuracies the cost study has been criticized and the recommendations which resulted, labeled unfair.[67] However, State Education Department sources claim the excess cost weights ultimately recommended to the legislature were based on more comprehensive data than that used in the published report because by the time the legislature met in March, 1980, they had gathered and analyzed more questionnaires which yielded more complete data.[68]

Several reasons for settling on the present funding mechanism are discussed in the state's report on the cost study. The State Education Department officials say they felt most favorable toward a pure pupil-based formula in which the extra weight for handicapped students would be included in the regular operating aid formula.[69] Under such a system, average costs of various programs would be determined and used to weight pupil counts of students enrolled in those programs. These weighted pupil counts would then be used in the calculation of district financial ability, expenditures per weighted pupil and aid per weighted pupil.

The State Education Department looked at weighting formulas in Florida and Massachusetts but decided that a pure pupil-based formula would not work in New York because the portion of total education costs shared by the state and reimbursed through the regular state aid formula is inadequate when compared to the actual average costs. They felt basic

reform of the regular state aid formula was needed before weightings for special education could be added to it directly.

As a compromise, the State Education Department suggested the adoption of a separate weighted pupil formula for calculating the excess cost of handicapped pupils' education. This formula would permit the use of higher aid ratios (49% for a district of average wealth in 1984-85) than the ratios allowed in the regular operating aid formula (36% for a district of average wealth in 1984-85). It would also apply the ratio to each district's actual operating expenditures which could be as high as $3300 rather than the $2750 in the general operating aid formula.

From the state's point of view, a separate weighted pupil formula also has advantages over pure excess cost formulas. It forces the districts to keep costs down since the state picks up only a share of the excess costs. In pure excess cost formulas, there is little incentive on the part of the districts to keep costs down since the state picks up the entire bill. In addition, pure excess cost formulas are said to require a large amount of paper work for each district each year, since the differential must be calculated annually. Finally, New York's education officials seemed to want this type of formula because it eliminates unnecessary labelling and instead, bases aid on the type of service and time spent in the program, rather than on the nature of the student's handicapping condition.

3. Impact of the Current Formula on Mainstreaming

It is not clear whether the state legislature wanted to encourage mainstreaming. Some officials indicated that they thought of resource rooms as mainstreaming, and thus, saw their inclusion in the weighting as the vehicle to encourage mainstreaming.[70] But the fact remains that the funding mechanism discourages mainstreaming (including placement in

resource rooms) in a number of ways. Chart 6 illustrates the negative funding configuration that results from the combination of state laws and funding formulas outlined in this report.

Most obvious, there is no category in the continuum of the Part 200 regulations for "special education in the regular classroom" to which funds can be directed and thus no weighting in the formula for such a service category. Both the state's position and its legal analysis is surprising since state legislators have been educated to the need for that type of service in the continuum through several position papers.[71] As noted earlier, state officials insist that once a handicapped student is in a classroom headed by a regular teacher, s/he is receiving regular, not special education. Thus they deny that a special child in a regular setting might need "supplementary aids and services," and maintain, instead, that if regular education wants to provide additional services, the funds should come out of the regular education budget since the services take place in a regular classroom.[72]

From a programmatic point of view, the position that mainstreamed students must be financed by regular education budgets is indefensible. All the proponents of mainstreaming, including New York's own former education commissioner Ewald Nyquist, consider the bare return of special education students to the regular classroom without support services a ticket to disaster.[73] In fact, they view the provision of supplementary aids and services in regular classes as a way to reduce referrals to special education and the classification of children as handicapped. Without these, regular education becomes simply a revolving door for handicapped children.

Chart 6

PLACEMENTS AND FUNDING FOR HANDICAPPED CHILDREN

PLACEMENT	AID PROVIDED BY NEW YORK STATE					
	REGULAR AID	+	EXCESS COST AID		=	TOTAL AID
Regular Class	Regular Per Capita Aid of 1	+	0	Excess Cost Aid	=	1.0
Transitional Support Services	Regular Per Capita Aid of 1	+	0	Excess Cost Aid	=	1.0
Related Services	Regular Per Capita Aid of 1	+	.13	Excess Cost Aid	=	1.13
Resource Room	Regular Per Capita Aid of 1	+	.9	Excess Cost Aid	=	1.09
Special Class	Regular Per Capita Aid of 1	+	1.7	Excess Cost Aid	=	2.70

In the absence of the state aid, districts must pay the extra costs if they seek to sustain handicapped children in regular classrooms. In spite of the financial burden, some districts have found creative ways of accomplishing this. But, this necesssity is especially distressing in light of a recent and comprehensive national cost study which shows that mainstreamed classes are the second most expensive special education placement.[74] That the support services necessary for mainstreaming (even in programs that are not full-time) might be expensive cannot be overlooked. Although the results of the nationwide study may not be definitive (for example, the data was gathered when mainstreaming was at a more experimental and possibly more expensive stage), policy-makers must come to terms with these results as they plan for the future. With time and different methods of allocating costs, the burden of supplementary aids and services may be reduced because districts will pay less for diagnostic services, need fewer self-contained classes with lower pupil/teacher ratios, and decertify more children to regular class placements.

One possible reason for the state's intransigent position on financing special students in regular classes may be the often-expressed fears about "accountability." The argument is that there is no way to know if special education funds channeled into regular classes will be used only for handicapped students. In fact, the students could be ignored altogether and receive no benefits from the funds. Conversely, others seem to fear that too much <u>regular</u> education money will be spent on the special students, that is, that the teacher's attention will be diverted from the regular students. The fear that special education in the regular classroom provides less accountability than special classes is specious. There is no guarantee that children will receive more attention or make greater educational gains in a special class. The same

yardstick of accountability -- whether the curriculum is individualized and whether the child learns -- are the appropriate measures of accountability for either situation.

There is another glaring omission from the New York formula. Transitional support services, the best option for providing special education in the regular classroom in the current continuum, received neither a weight nor an appropriation from the legislature. Thus, even these temporary support services have received only lip service since being incorporated into the state law. If this service option is to be used, it must be supported entirely by local districts.

The absence in New York's formula of incentives to place students in less restrictive programs is not only a function of the lack of weightings for special education services delivered in regular classrooms, it is also the result of weightings that are too low to permit other strategies for integration. For example, several critics have said that the weight given to resource rooms is too low, thus discouraging placements in this program which is considered to be less restrictive than a self-contained, special class placement.[75]

These critics maintain that resource rooms should be given a weighting of 1.0. Even though resource rooms do not represent extra students, they cost at least as much as a regular classroom because the teacher is employed full-time. In New York City, and perhaps other large upstate urban areas, there is no savings of money in the regular classroom while a student is pulled out to attend the resource room program because the regular teacher must still serve a roster of 30 or 35 children in New York City. Furthermore, in New York City the students attending resource rooms are often replaced by students being mainstreamed from other self-contained classes during the period the handicapped students

are in the resource room, thus actually increasing the regular teaching load.

It could be argued equally well that resource rooms should receive a weight closer to the 1.70 allowed for special classes for two reasons. First, the teacher/student ratio in the resource room, over the course of a single day, is 1:20 which means that the students in this class should receive a weight of more than "1" to cover the added costs of the smaller class size. Secondly, when operated full-time as another special education setting for small group instruction but with a slightly higher teacher/pupil ratio than the 1:12 or 1:15 for the more traditional self-contained special classes, resource room services deserve a weight somewhat above "1". It may be that this inadequate aid level explains the low proportion of students in resource rooms statewide (34%) as compared to the percentage of mildly handicapped students in the statewide handicapped population (97%). Students are not likely to be placed in resource rooms if school districts cannot afford to operate them.

Another way in which the formula defeats maximum mainstreaming relates to the time constraints in each service category for they do not permit a smooth transition for students moving to a less restrictive placement. Excess cost funding is allocated for periods of special education service provided according to rigid prescriptions: 60% of the school day, 20% of the school week and 2 or more periods of specialized instruction or related services per week. Thus, if a school district wants to place a student in a special class for three periods a day and in a regular class for the rest of the day, the district cannot receive excess cost funding for the student under the current system of weightings because s/he is spending only 37% instead of 60% of the school day in a self-contained program. The rest of the day is spent in regular

class so the student would not be eligible for the .9 allocation for resource room instruction because the time spent in special education exceeds the 20% of the school week limitation on the resource room weighting.

The weightings have also been criticized because the allocation for related services is so inadequate that school districts are unable to hire a sufficient number of occupational and physical therapists to serve the multiply handicapped population. Arguably this is so because the cost of employing these professionals, who now average $45.00 per half hour session in the private sector, cannot be funded with the .13 allocation.[76] At this rate and with this weighting, a district of average wealth could purchase 32 sessions of therapy per school year -- barely one session per week per child.[77]

A final criticism is often levied against this formula because it encourages the placement of students in special classes and special schools, the more restrictive environments, by providing the most state aid (1.70) for students in self-contained settings. This is a viable argument only in two instances: if the true cost of self-contained classes is less than 1.70, and districts use the placement as a way to capture money that can be used for some other purposes; or the cost of other services is far in excess of their .9 and .13 allocations, so that districts place children in the setting where they will have to supply less local money to the program because the weight more closely approximates the costs involved.

Regardless of what formula is chosen, the object is to create a "program neutral" formula for aiding excess cost expenses.[78] This means that each service should be weighted to reflect its actual cost. In this way districts will provide what the child needs rather than

placing the child according to what is reimbursed because the state will tend to make up the extra costs. No formula can entirely prevent districts from placing children in the setting that generates the most money. In New York, however, we do not know if the current funding formula is program neutral because we have reason to doubt the accuracy of the cost study from which the weightings came, and it is entirely possible that the high number of mildly handicapped children placed in special classes is the result of disproportionate weights. Even if the costs from the study were not of questionable origin, they are now outdated. Perhaps, too, the structure of this formula is shaped by a desire to keep the state's costs down. For instance, it is not even clear whether the cost of special classes is given an adequate weight. State Education Department officials assert that the 2.7 ("1" in the operating formula plus 1.70 in the excess cost formula) weighting accurately reflects the cost of these self-contained classroom services. However, this ignores the simple fact that the original cost study found the cost of special education classes to be 3.17 times that of regular education in 1979. Others throughout the state still question the validity of the weightings and the means used to produce them.[79]

D. SEEDS OF MAINSTREAMING IN NEW YORK STATE HISTORY

The question of why the present state laws and formula deal with mainstreaming in such an inadequate fashion leads inevitably to questions about their history and evolution. Strangely enough, the present education laws and funding formulas are much less capable of promoting mainstreaming and placements in less restrictive settings than were several previous statutes. Indeed, the recommendations of a former commissioner of education and several special commissions created to

examine the education finance system in New York were effective in producing funding reforms, later abrogated by the legislature, to facilitate the additional mainstreaming opportunities they advocated.

Under Chapter 722 of the Laws of 1956, state aid to education was allocated by a resource-based formula limited to reimbursement for the expenses of approved special classes and certain salary costs. Among others, these covered "approved special teachers assisting regular classroom teachers in providing educational services for physically handicapped children in regular classes." Each year aid increases could be approved to cover the rising cost of instruction subject to a ceiling amount established by the legislature.[80]

In 1962, the legislature acted once again, and adopted the Diefendorf formula. The formula increased the level of general state school support through an adjustable, capped formula based on district wealth and eliminated categorical aids. One of the major purposes of this legislation was to decrease the financial impact of special educational aids.[81] However, the previously enacted excess cost aids for teachers of children in special education programs, including those in regular classes, were omitted on the articulated assumption that the increase in state support to local districts would ensure equitable financial support to special education. The largest of the special aids eliminated in 1962 were those for handicapped pupils, and part of the justification for this was the fear that past practices had led to district overprogramming which had cost the state nearly $28.6 million.[82]

General aid formulas rarely benefit children with special needs because they do not contain incremental funding to support the variety of programs required by handicapped students. Without any form of categori-

cal or excess cost aid, districts were left to supply the funds needed to educate handicapped children from local sources. With the enactment of the Greenburg law in 1957 making funding for private school programs available to a wider range of handicapped children, and the passage of amendments to BOCES legislation in 1967, authorizing the construction of facilities to house vast programs serving the handicapped, school districts found these more restrictive programs, along with the state supported schools for the blind and deaf, attractive solutions to meeting the educational needs of their handicapped population.

In 1970, the state appointed the Fleischmann Commission to study the quality, cost and financing of education in New York. This was the third time in the state's history that a comprehensive review of the state aid formula and its education laws had been taken. In the wake of the San Antonio v. Rodriquez[83] decision, the explicit task before the Commission was to see if the state aid formula discriminated against school systems in poorer districts.

In 1972, the Fleischmann Commission issued a report recommending reforms in all areas of the law which would bring equal educational opportunity to all students in the state. Special education was no exception. Their report cited problems with the exclusion of handicapped children from educational services, believed then to be 53% of a conservative estimate of the handicapped population. They found problems locating handicapped children and diagnosing them; inadequate educational services to residents of state institutions for the retarded and mentally ill; inadequately trained teachers; overuse of private schools, BOCES facilities, and state supported/state operated schools; poor oversight and monitoring by state education authorities; and concluded that the state method of financing special education was a deterrent to find-

ing and serving the state's handicapped children adequately.[84]

The Commission proposed numerous recommendations designed to bring all handicapped children into the public schools, including the creation of more publicly-operated programs. The Commission also recommended a new means of funding these proposals. Based on a national study of cost indices for educational programs serving handicapped children, which computed a mean excess cost of 2.037 for operating these programs, the Commission recommended the state allocate funds for special education through a categorical aid program that gives each handicapped student a weighting of 2.0.[85]

In addition to these finance recommendations, the Commission made a series of programmatic recommendations also based on the findings of this study. These unequivocally urged expedients to encourage integration of special education children into the regular classroom. Thus they recommended rewriting the state education law to "advance rather than hinder the philosophy of integrating mildly handicapped children into regular classroom situations." To this end, they urged the Commissioner to develop regulations with firmer guidelines for placing children in special education, "who should either be considered severely handicapped and placed in a special class or special school, or mildly or moderately handicapped and able to be educated in a regular classroom with some supportive help." To emphasize the seriousness of its recommendations, the Commission included a recommendation that the State Education Department sponsor "experimental programs to study the integration of children with various types and degrees of handicaps in different school situations."[86]

Following discussion and debate of the Fleischmann Report, the legislature adopted another funding formula to allocate funds for the

rising costs of special education which would be inevitable as a result of a new law they had just passed. Chapter 241 of the Laws of 1974 expanded the definition of "children with handicapping conditions" to include, in addition to those already entitled to educational programs, the visually-impaired, hearing-impaired, and severely speech-impaired.[87]

In the general formula for allocating state aid to the districts, Chapter 241 allowed "children with handicapping conditions" to be counted double, creating what was, in effect, an excess cost formula within the regular education aid formula. This legislative change signalled a shift in the type of aid formula to be used from resource-based to pupil-based. In addition to this double weighting, large city school districts received excess cost aid for each severely handicapped child (trainable mentally retarded, severely crippled and health-impaired, severely hearing-impaired, severely emotionally disturbed and multiply handicapped children) attending special schools.

Even though the legislature sidestepped the mainstreaming recommendations of the Fleischmann Commission, those recommendations fell on the receptive ears of former Commissioner of Education Ewald Nyquist. In 1975, under his leadership, the State Education Department issued "an occasional paper" to explain the reasons why the Board of Regents made a strong commitment to mainstreaming handicapped children and to help people across the state better understand the concept.[88]

The paper discussed a variety of ways to mainstream handicapped children including participation in a regular class with supportive services, and the helping teacher model with special education teachers assisting regular education teachers. Resource rooms and open classrooms were also mentioned. Throughout the paper, Commissioner Nyquist cites programs in school districts throughout the country experimenting with

mainstreaming. These recommendations, like those which preceeded them, were discarded by districts struggling just to get handicapped children into school.

However, the passage of P.L. 94-142 in 1975 forced the school districts to increase their expenditures for special education even further in order to meet the requirements of the federal law, particularly the mandates to serve new children, such as the autistic and learning disabled, and the new requirements for a continuum of special programs and related services.

In response to these federal mandates, the New York Legislature quickly adopted a new, but temporary, aid formula in 1978 for school districts experiencing budgetary constraints in meeting the educational needs of these children. This formula retained the double weighting for handicapped students in the state aid formula and revised the excess cost aid provisions to provide extra funds for handicapped children, not just the severely impaired, attending special classes or schools for more than 80% of the day. The excess cost aid was not available, however, for children diagnosed as educable mentally retarded or learning disabled. This formula was to tide the districts over until the legislature could institute a formula that would aid local school districts according to the actual costs of providing special education programs for children with handicapping conditions.

While legislators considered a permanent forumla, they again were presented with recommendations, this time coming from the office of New York City Council President.[89] Based on an analysis of the shortcomings of the temporary 1978-79 formula, legislators were urged to aid special education at a higher rate and, significantly, to find ways to

promote integration. The report put it succinctly:

> But this study demonstrates that although federal and state governments have mandated free, complete and unrestrictive educations for handicapped children, they have failed to provide adequate funding to aid local school districts, and the funding formulas they have provided are so contradictory they make it difficult for local school districts to fulfill the mandate for the least restrictive environment. In fact, state funding formulas fly in the face of laws promulgating rights for the handicapped; they encourage segregation of handicapped pupils. (90)

As discussed above, the latest funding reform was chosen by the legislature in 1979 after the results of the state's 1979 cost study were released. The formula they selected eliminated the double counting of handicapped students from the regular state aid formula and, instead, created a categorically-based excess cost formula. It recommended seven levels of service delivery which included regular education with modifications and analyzed several possible methods for reimbursing all seven levels with state education funds. Per-capita costs of educating a handicapped student were reduced from the double weighting adopted following the Fleischmann Report to a weighting of "1" in the state operating aid formula, but the costs over and above regular education costs, the excess costs, were to be calculated in a separate formula according to a system of weightings based on the type of placement and time in the program.

Subsequent to the new formula adopted in 1980, the legislature resorted to a special task force for a fifth time in New York's history, to assess the equity and excellence of its education systems and, in particular, to find out if large cities were bearing too great a burden of their education costs. In 1982, the report of the Rubin Task Force was released. The Task Force criticized the 1980 formula for

aiding handicapped pupils because it has "too low an expenditure ceiling, and depends on weightings that are an estimate of average statewide costs which understate the actual costs for many districts where costs are above-average."[91] In their report, the Task Force recommended revising the state aid formula for handicapped pupils to a true excess cost formula based on the actual expenses of approved services. As an alternative, they suggested streamlining the current method of distributing handicapped aid by incorporating appropriate handicapped weights into the operating aid formula as well as raising the aid ceilings. And, for the first time, this report recommended removing the "unintended incentive" to place handicapped pupils in private schools caused by the higher reimbursement districts receive for children placed in these programs.[92] But the recommendations of the Rubin Task Force were never acted upon by the legislature.

IV. CONCLUSIONS & RECOMMENDATIONS

It is clear from the investigation reported here that mainstreaming efforts in New York deserve more support from the educational establishment and the public as well as a stronger endorsement from the legislature than New York has provided to date. This is required, uppermost, to fulfill the legal rights of all children determined to have a handicapping condition. Education responsive to these children's unique needs is only one of P.L. 94-142's entitlements. Education in the least restrictive environment is another.

The Fleischmann Commissions's recommendations for New York, and P.L. 94-142's commitment to the concept of mainstreaming have been reaffirmed by a recent commission created by the U.S. House of Representatives' Sub-Committee on Select Education to study the financing of a free and appropriate education for special needs children. In a report released just last year, the Commission's first recommendation is that state and local education agencies should establish "more flexible and individualized options for serving handicapped children within regular education programs and adopt rigorous requirements for meeting the needs of students in regular programs before any formal special identification or evaluation occurs."[93] The existing mainstreaming models and the evaluations of their impact on learning command the attention of New York's education officials. However poorly or well the current literature and research support the legislative requirement for mainstreming, it has operated effectively in a number of carefully planned situations and it has not been proven unworkable or edu-

cationally detrimental to date. Moreover, these studies have shown that education in the least restrictive environment can make "special" help available in a less pejorative fashion for a greater array of exceptional children, and ultimately, in a more cost-effective way than segregated programs. Moreover, delivering special education services in the mainstream also has the potential to remove the inequities associated with a system that, given the subjectiveness of the evaluation process, labels and places some, though not all, children in special education programs, while denying service to others whose learning needs are substantially similar.

An ever increasing group of elected officials, educators and citizens are responding to the register and budget growth in special education by urging sharp curtailment in the referral and diagnosis rate. Ironically, the proponents of this extreme and linear approach admit that sustaining more children in regular education depends upon the availability of support services for which there has rarely been the money but which resemble the very types of supplementary aids and services provided by special education. Mainstreaming innovations of the kind discussed in this report are a direct and immediately available solution. Without the negative impact of unnecessarily segregating children who may be improperly labeled, they assure needed services to everyone in the class.

When techniques for individualizing education are offered in the regular education program, there is the eventual possibility, recommended by the Fleischmann Commission and the Commission appointed by the U.S. House of Representatives Sub-Committee on Education, of eliminating the need to categorize children as "handicapped" in order to assure they are served. It was indeed the vision of the original

proponents of mainstreaming to provide appropriate education services for children with special needs in the regular classroom and they saw this as the way to meet the diverse learning needs of all children in a cost-effective and non-discriminatory way. New York's grudging attitude, mirrored in laws and policies that thwart and confine mainstreaming opportunities, has so far prevented even the exploration of this hypothesis. It is incumbent upon the state to experiment with and study both the newly created mainstreaming programs and the more traditional mainstreaming programs as part of their legislative mandate and legal obligation to educate handicapped children in the least restrictive environment alongside their nonhandicapped peers.

New York's educational and elected leaders must embrace the concept of mainstreaming and clear the way for experimentation and testing of what may be a bellwether for education as a whole. This will require the honest support of state officials and the education community who must undertake to create a full continuum of services where maximum mainstreaming opportunity, in all its various configurations, can flourish. To do this New York must take the following steps:

First. New York must put full faith and credit behind its commitment to education in the least restrictive environment to the maximum extent appropriate by amending its education laws to establish special education services in the regular class as part of the present continuum. At the same time, New York should increase the mainstreaming options for children who fall between the levels of service available in the resource room and self-contained classes.

Second. The Commissioner must also revise his regulations to include services to be rendered by certified special education teachers in classes headed by regular education teachers as "special education

services" as well as appropriate activities of regular education teachers under the supervision and direction of a certified special education teacher.

Third. New York must make funds available to support these experiments on an interim basis. There are various approaches to modifying the existing funding formula and permiting these to occur. For example, the State Education Department could allocate a part of its P.L. 94-142 discretionary grants for mainstreaming programs. Or, the state legislature could amend the definition of "transitional support services" to fund preventive services to children who would otherwise be placed in special education programs, as well as to children moving to less restrictive programs, and authorize an interim appropriation of funds for these services. Temporary waivers of the state law and the Commissioner's regulations regarding the definition and funding for resource rooms and related services could be granted. Funding could go not only to placements in part-time, pull-out programs but also to support the range of supplementary services and specialized instruction that might be required by a child placed in a regular class. Similarly, "related services" could also be redefined to encompass consulting services of special education teachers within the regular classroom.

Fourth. Districts that want to implement experimental mainstreaming programs under these interim funding plans should be required to design programs with a strong data collection component. This would give them, after three to five years of experimentation, the capability of computing the actual costs involved with each type of program, and the ability to assess the educational and emotional impact of mainstreaming programs. In the end, New York would have a valuable study of the benefits, both economic and educational, of mainstreaming

alternatives. And, with creditable results, New York could assume a major role in advancing mainstreaming programs or, if the results are negative (either educationally or fiscally) New York would be in a better position than it is now to argue for its more rigid interpretation of the least restrictive environment mandates of the law.

Fifth. Assuming that New York's experiments will confirm the success of mainstreaming programs, efforts must begin to determine how the funding formula will be revised, on a permanent basis, to encompass the new continuum of services that will include special education in regular classes and other mainstreaming variations. Education finance authorities agree that there is no single best type of funding formula to facilitate placement of handicapped students to the maximum extent appropriate in mainstreamed settings.

At this point in time few, if any, studies measure which of the various formulae offer the greatest impetus for mainstreaming. Regardless of which formula is used, it cannot be counted on to work miracles. Most states have found it best to choose a special education aid formula that is congruent with their overall education budgeting process.[94] For example, if the regular education budget is calculated on a resource basis, it is usually easier to calculate the special education budget on that same basis. Since New York's general and special education budgets are aided on the basis of pupil weightings, it makes sense in planning for a new formula to maintain the pupil-based aspects of the present formula.

There are major strengths to the present excess cost aid formula which would make it relatively easy to finance the mainstreaming configurations advanced in this report. The primary benefit is that the formula already contains some specific categories of aid for students

in regular classrooms, i.e. resource rooms and related services. And, because the formula's weights are not linked to handicapping conditions, they can be adapted to include placements in regular education classes. Still another advantage of the present formula is that funds are generated by the child and not by classroom or teaching units.

This proposal stops short of including some form of weighting for mainstreaming in the regular operating formula, as the Rubin Task Force suggested, because without further study, this could be impractical or might sell districts short because of the lower aid ratio and district expenditure ceilings provided for in the operating formula. Arguably it would not be productive to pursue this course because there may not be another comprehensive reform of that formula for several years inasmuch as the legislature just enacted new operating aid measures during the 1984 session.

Sixth. The last but concurrent action New York must undertake is a thorough study of the costs of special education placements throughout the remainder of the continuum to assure that the less restrictive placements are adequately weighted to minimize the inclination to place children in the settings where greater aid is available. This is urgently needed because New York's 1979 cost study has been the source of constant criticism, has been discredited because of its inaccuracies, and because the weightings it produced are unquestionably outdated.

Any new cost study must evaluate the cost of SERC's in a different manner than the state uses to evaluate the cost of other special education services because the provision of special education support services to handicapped children in regular classes benefits all children in the regular class. Therefore, [illegible]alistic analysis should not appraise these services only in terms of their per capita cost for the

handicapped children involved. At least where programs function in support of all regular classroom teachers, a cost-benefit analysis would assess the value of services to other children in the classroom as well, in addition to considering the cost savings which result from fewer referrals to special education, the need for fewer self-contained classes where there is a very small teacher/student ratio, and the increase in students decertified from special education programs which SERC's would foster. Any new weightings that are developed as a result of the cost study will also have to make some adjustment for large school districts in urban centers which have higher personnel and overhead costs due to their location and the presence of more handicapped and disadvantaged students in the school population.

The potential advocacy community for these changes is large and diverse spanning, in addition to professional educators:

- parents who fought for the removal of their children from historically segregated special schools and classes and their integration into regular educational settings;
- minority group parents who believe too many of their children are referred to special education for the wrong reasons;
- psychologists who believe the state of the art in diagnosing disabilities is so subjective that it is in the best interests of the children to attempt to serve those suspected of having a handicapping condition in regular classrooms before segregating them in special classes and schools from which statistics show few children ever return to regular classes;
- teachers who see the resources of special education as the only alternative to make up for discontinued remedial education and tutoring programs for needy children in the regular school; and

- politicians and private citizens concerned with the rising cost of special education budgets throughout the country.

The recommendations in this report are not intended to be final answers. Instead, it is hoped that this report will present questions for discussion and awaken policy-makers to the potential for mainstreaming which has been overlooked or ignored, as well as to stimulate New York's educators and citizens to move toward the development of a more viable system for mainstreaming New York's children with handicapping conditions.

Special and regular education children stand to benefit from a growing body of research and experience with the education of "exceptional" children. But the potential has not been realized. Arguably, New York's substantial investment in special education has proved less beneficial than it might have because of the state's negative rather than innovative approach to implementation of the law's least restrictive environment mandates.

To harness the capability of special education thinking and dollars for the benefit of all children, the special and regular education constituencies must work together to combine their programs and create a single legal framework which supports them both. They must consider merging their historically separate pedagogical and administrative ladders into one hierarchy; at a minimum their budgets must be consolidated, and the skills of each discipline shared. Only then will it be possible to meet the learning needs of all children in the school system by a single continuum of services, and only then will the school system view all children as members of a single group, with as many similarities as differences.

APPENDIX A

THEORETICAL MODELS OF MAINSTREAMING

THEORETICAL MODELS OF MAINSTREAMING

There is no single way to accomplish "special education in the regular classroom." ("SERC") The researchers who coined the term discuss some of the important educational principles that they feel need to be included and cite a few examples of programs. A recent, survey of mainstreaming models illustrates and explains the most common types of SERC models in operation throughout the country. The first five models rely on the fairly consistent presence of special education teachers who function in a co-teaching or consulting capacity with the regular teachers, and at times work directly with the handicapped children. The last two models depend less on frequent contact between the handicapped child. The seven models are:

Team Teaching - Here the special and the regular education teachers share the responsibilities for instruction. In junior and senior high schools where content is paramount, combining the special education teacher's expertise in special educational techniques and adaptation of materials with regular teacher's knowledge of the subject area provides the optimal learning environment for all children, not just those with handicapping conditions. Both teachers observe the children on a daily basis, develop a profile of their strengths and weaknesses, plan activities, and evaluate the learning taking place.

Diagnostic Prescriptive Teaching - In this model, the diagnostic prescriptive teacher (DPT) acts as an assistant to teachers, offering help in adjusting the learning environment to the children's individual needs. The DPT observes both the child and the teacher and works with the teacher to develop an educational plan and appropriate instructional materials for the children requiring special education

The DPT often demonstrates the recommended techniques and periodically observes the individual children to see their progress.

Individually Guided Education - In this multi-unit structure of non-graded classrooms. Three to five teachers and aides work with 100 to 150 students of various ages. The special education teacher becomes a part of the multi-unit teaching organization. The emphasis is placed on instructional programming for the individual students. The variety of ages and abilities make it easier to incorporate handicapped children and brings flexibility to standard classrooms which makes it possible to accommodate mainstreamed students.

Pod System - In this model the special education teacher becomes the learning center coordinator of the school and thereby sets up various activity centers which permit movement and provide multi-level instructional programs, multi-media options, and individual learning packages. Generally six to eight classrooms are assigned to each pod. The special education teachers works in the pod tutoring individual or small groups of children, and team teaching with the regular instructor.

Consultation - This model provides for ongoing inservice training for regular education teachers who have handicapped children placed in their classes. These consulting services are "on call" to help facilitate mainstreaming by offering suggestions and solutions to specific and immediate problems the regular teacher is encountering. Consultants come to the school, observe the classroom and work with the teachers.

Prescriptive Instruction Development - The diagnostic center is the focus of this model. A multi-disciplinary child study team (speech therapists, psychologists, social workers, learning disability

specialists, special education teachers, etc) use standardized and criterion-referenced measures in routine testing situations. The team gathers child-oriented information form a diagnostic observation of the child in the classroom. Using test measures, record and observations, the team assesses the individual learning styles of each student and prescribes remedial and/or special education.

Teacher Assistance Team - These teams offer extra assistance needed by regular classroom teachers when they program for exceptional children in their classes. This model provides day-to-day peer support systems and problem-solving groups for teachers. The goal is to provide more efficient and effective delivery of special help by children by helping teachers to understand the nature of learning and behavior problems of the special child and by making assistance immediately available to teachers when there is a problem. When referrals are made for special education programs, this team looks at alternatives within the regular classrooms before considering a segregated special setting.

These and other mainstreaming models are not mutually exclusive. They can be, and often are, used in conjunction with one another depending on the needs of the particular group of children and their individual learning needs. In fact, an overview of some of the programs accross the nations shows that these theoretical models must be adjusted to the specific needs of states and local districts when they are implemented.

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*For a more extended discussion of these models, see P. Gillett, "Models for Mainstreaming." The Journal For Special Educators, Vol. 19, No. 1, 1982: 1-12.

APPENDIX B

TYPES OF SPECIAL EDUCATION

FINANCE FORMULAS

TYPES OF SPECIAL EDUCATION
FINANCE FORMULAS

1. Resource Based Formulas

Formulas are based on the payment for resources (teachers, aides, equipment, etc.) with regulations on the costs of resources that are allowable and on the resource use per student served.

a. Flat Grant Per Classroom or Teacher Unit

The state provides districts a fixed sum for each special education teacher employed or special classroom needed. For example, the state might pay $2,000 for each ten students enrolled in special education.

b. Percentage of Personnel Salaries

The state pays districts a percentage of the salaries of special education teachers and/or personnel. For example, a state could pay 70% of all approved special education salaries or 70% of special education teachers and 30% of special education aides.

c. Weighted Teacher or Classroom Units

The state pays districts a sum that is a multiple of teacher or classroom units allowed. Different disability groups or program placements usually have different weights or staff ratios. For example, a state could contribute one staff unit for each 4.9 severely handicapped student and one staff unit for each 24.5 mildly handicapped students.

2. Pupil Based Formulas

Formulas are based on the number and type of pupils served with regulations on the cost and use of resources.

a. Flat Grant Per Pupil

The state provides districts a fixed sum of dollars for each handicapped student. P.L. 94-142 funds are distributed in this manner, for example, $200 for each handicapped student served.

b. Weighted Pupil Units

The state pays districts a multiple of regular per pupil expenditure levels or another basic support level. States frequently use this approach

as a comprehensive educational finance scheme although some states choose to weight only the special education programs

3. Cost Based Formulas

Formulas are based on costs with regulations on the children served and use of resources.

a. Percentage of Costs

The state reimburses districts a percentage of full costs of educating handicapped children. Costs generally must be approved categories within cost ceilings. Under excess cost systems districts must spend an amount for each handicapped student that is equal to the amount spent on the average non-handicapped students. Costs can be school district costs or an approximation of costs derived from statewide averages or estimates.

b. Excess Costs

The state reimburses the district for all of the costs of educating the handicapped child over that of educating the non-handicapped child.

*Excerpted from: W. Hartman, Policy Effects of Special Education Funding, Program Report No. 80-B1, Institute for Research on Education Finance and Governance, School of Education, Stamford University, January 1, 1980; M. Moore and Others, Fine Tuning Special Education Finances: A Guide for State Policy Makers, Educational Testing Service, Princeton, New Jersey 1982.

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APPENDIX C

HIGH COST FORMULA

Appendix C

HIGH COST EXCESS COST AID FORMULA FOR PUBLIC SCHOOLS, BOCES, AND HOME AND HOSPITAL INSTRUCTION

$$\text{High Cost Excess Cost Aid} = \left[\text{Approved Program Cost} - \left(3 \times \frac{\text{AOE}}{\text{TAPU for Expense}}\right)\right] \times \text{High Cost Aid Ratio}^{a}$$

(Where the cost of a pupil's program exceeds the lesser of $10,000 or four times the average operating expense/ TAPU for expense without limits.)

(TAPU for Expense weightings are the same as in the TIER 1 formula)

(49% for district of average wealth)

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[a] For the actual calculation of the high cost aid ratio, see 1984-85 New York State Executive Budget Recommendations for Elementary and Secondary Education, pp. 46, 71.

APPENDIX D
PRIVATE SCHOOL AID FORMULA

Appendix D

FORMULA FOR AID FOR HANDICAPPED STUDENTS IN PRIVATE SCHOOLS

A district receives aid for handicapped pupils in private schools. The aid is a combination of additional operating aid and excess cost aid. The aid is computed on a student by student basis, with a district receiving additional 1.0 operating aid and private excess cost aid for each student.

Additional 1.0 Operating Aid = Selected operating aid x Private School Handicapped Student Enrollment per selected TAPU

(Weightings are the same as in the Operating Aid, Tier 1 formula)

Private Excess Cost Aid[a] = Excess Cost x Excess Cost Ratio[a]

(Tuition Basic District Contribution, 2.0 operating aid, federal funds)

(85% for district of average wealth. 50% minimum)

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[a] For the actual calculation of the private excess cost aid ratio, see 1984-85 New York State Executive Budget Recommendations for Elementary and Secondary Education, pp. 47-48, 71.

FOOTNOTES

1. Mills v. Board of Education of the District of Columbia, 348 F. Supp. 866 (D.C. 1972) and Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 334 F.Supp. 1257 (E.D. Pa. 1971); 343 F.Supp. 279 (E.D. Pa. 1972).

2. Unanswered Questions on Educating Handicapped Children in Local Public Schools, U.S. Department of Education, 1983.

3. Fifth Annual Report to Congress on the Implementation of Public Law 94-142: The Education for All Handicapped Children Act, U.S. Department of Education, 1983.

4. Board of Education of the Hudson-Hendrick Central School District v. Rowley, 458 U.S. 176 (1982).

5. Fourth Annual Report to Congress on the Implementation of Public Law 94-142: The Education for All Handicapped Children Act, U.S. Department of Education, 1982. p. 33-39.

6. "Regular Classes" means a combination of services including resource rooms, itinerant services, consulting teachers, etc. Fifth Annual Report, p. 33.

7. New York State Education Department Information Center on Education, "School Age Handicapped Pupils by Type of Service, Location and Handicapping Conditions" as of December 1, 1982; Agency Summary of School Aged Handicapped Children (6-12) submitted by the New York State Education Department with its FY 1976 State Plan Amendment under Part B, EHA, as amended by P.L. 93-380, July 1976 - enrollent data for the school years 1974-75; 1975-76.

8. Act of November 29, 1975, Public Law No. 94-142 Section 601, 89 Stat. 773; 20 U.S.C. Section 1400(b).

9. 34. C.F. R. Part 300.551(b)(1).

10. 20 U.S.C. Section 1412(5)(b); 34 C.F.R. Part 300.550(b)

11 Fourth Annual Report to Congress on the Implementation of Public Law 94-142: The Education for All Handicapped Children Act, p.33.

12. Hearings before the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, United States Senate, Ninety-Third Congress, First and Second Session on S-6 - April 9, 1973 in Newark, New Jersey; May 7, 1973 in Boston, Massachusetts; May 14, 1973 in Columbia, South Carolina; October 19, 1973 in St. Paul, Minnesota; March 18, 1974 in Harrisburg, Pennsylvania; June 17, 1974 in Washington, D.C.; June 24, 1974 in Washington, D.C.; April 9, 1975 in Washington, D.C.; April 15, 1975 in Washington, D.C.

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14. 20 U.S.C. Section 1412(5)(b).

15. U.S. Code Cong. and Adm. News, 94th Cong., 1st Sess., Vol. 1, p. 1425 et. seq.

16. The PARC consent agreement presumes that for the mentally retarded, "placement in a regular class is preferable to placement in a special public school class and placement in a special public school class is preferable to any other type of program for education and training." 334 F.Supp. 1257, 1262 (E.D. Pa. 1971).

17. H. Chandler, "You Can't Call It Failure: Elementary LD Education," Journal of Learning Disabilities, 15, no. 8, 1982: 503-505; L. Dunn, Special Education for the Mildly Retarded - Is It Justifiable?" Exceptional Children, 35, 1968: 5-22; J. Gottlieb, "Mainstreaming," Education and Training of the Mentally Retarded, 1982 (April): 79-82; P. Longo, "Mainstreaming: The Promise and the Pitfalls," Urban Education, 17., no. 2, 1982: 157-179; D. L. Macmillan, "Special Education for the Mildly Retarded - Servant or Savant?" in Problems and Issues in the Education of Exceptional Children, ed. R. Jones (Boston: Houghton Mifflin, Co., 1971), p. 413; S. Sigmon, "The History and Future of Educational Segregation," Journal of Special Education, 19, no. 4, 1982: 1-15. In addition to these review articles, another useful summary is available from ERIC. It is Computer Search Reprint No. 521, entitled "Research on the Effectiveness of Mainstreaming."

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58. Each of the elements in this formula and the ones discussed below are derived from a complex set of calculations. For example, the aid ratio is determined in part by comparing the average income of a district to the average income of the state. The details of such calculations can be found in various publications. Of most help to us were: Special Education Funding: A Story of Broken Promises, Educational Priorities Panel, February, 1981; Providing State Aid for the Education of Children with Handicapping Conditions based on a Study of Costs, The State Education Department, Albany, New York, November 1979; 1984-85 New York State Executive Budget Recommendations for Elementary and Secondary Education, and Citizen' Guide to the New York State Aid Formula, (prepared by Liz Gewirtzman and Lynne Weikart) Educational Priorities Panel, March 1979.

It is important to note that one of the major controversies about both the operating aid formula and the categorical aid formula for special education in New York is that large city districts have to pay a disproportionate share of their education costs because the aid formula does not adequately reimburse them. Because of a denser population (of nonhandicapped as well as handicapped students) and generally higher costs, these districts' per capita costs for education are higher than those of other districts, though the formula does not account for this. For discussions of this issue see Special Education Funding: A Story of Broken Promises; A Citizen's Guide to the New York State Aid Formula, Educational Priorities Panel, 1980-81; Research Findings and Policy Alternatives: A Second Interim Report to the New York State Special Task Force on Equity and Excellence in Education, September, 1980; and The Report and Recommendations of the New York State Special Task Force on Equity and Excellence in Education, Volumes One, Two and Three, February, 1982.

59. For the details of this formula, see 1984-85 New York State Executive Budget Recommendations for Elementary and Secondary Education, pp. 38-88

60. 1984-85 New York State Budget Recommendations for Elementary and Secondary Education.

61. See footnote 58

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64. Providing State Aid for the Education of Children with Handicapping Conditions Based on a Study of Costs.

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66. Personal Communication with Susan Amlung, Educational Priorities Panel, New York City.

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